

Allied Services says it will appeal house ruling

By NAN WATERS

"Of course we will appeal the decision of Jermyn's Zoning Board," a spokesman for the Scranton law firm of Oliver, Price and Rhodes, which represents Allied Services for the Handicapped, told the Carbondale MIRROR on Monday afternoon.

"We think we have good legal reasons for appealing the decision to the courts, and we intend to stand on it."

Attorney Kenneth A. Rhodes Jr., counsel for Allied, was referring to the decision reached Monday evening, Nov. 9, by the three-man Board of Appeal (i.e., Board of Adjustment) in effect upholding an appeal taken by Attorney Albert E. Nicholls, Jr., and his wife, Catherine, 433 Washington Ave., Jermyn.

The decision stated that the permit given to Allied was improperly issued, revoked that permit, and gave notice to Allied Services to vacate the premises within 30 days.

The Nicholls objected to issuance of a special permit to Allied Services for use of the former Jermyn Community House, 438 Washington Ave., opposite their home, on the grounds that no public hearing was held at the time the permit was granted. Allied is currently using the old Victorian building, which it purchased from the Borough of Jermyn for some \$40,000, as a halfway house for former mental patients.

Improperly issued

The three-man board, chaired by Richard J. Marian, met last Monday evening and the following day issued the decision. "The Zoning Board of Adjustment met Nov. 9, 1981, to decide on the appeal of Albert E. and Catherine Nicholls. Decision of the board was that the permit given to Allied Services for the Handicapped was improperly issued and is therefore revoked effective 30 days from Nov. 9, 1981. Notice has been given to Allied Services for the Handicapped as to revocation of the permit. In compliance with the verdict, Allied Services for the Handicapped must vacate the building at 438 Washington Ave., Jermyn, PA, within 30 days of Nov. 9, 1981. (Signed) Richard J. Marian, chairman, Frank Grimm, vice chairman and Robert J. Jones, secretary."

Notice of the decision was sent to Attorney W. Boyd Hughes, of the Scranton legal firm of Hughes, Nichols and Moran, of which the appellant is a member.

The decision of the Zoning Board was apparently not totally unexpected by either side in the case. During a 40-minute hearing held Oct. 21 held at the Jermyn Community Center, borough Zoning Officer Frederick R. Stephens, who has held that post 10 years, admitted freely that "Allied wanted the building, and the borough wanted the money."

Under oath, while being questioned by

Attorney Hughes, he stated that Borough Council President Idria D. Edwards had told him to issue the permit "since he thought there was nothing wrong with it."

Nicholls himself was a member of the Zoning Board at one time, resigning after Allied purchased the building last spring.

Mandamus

A vacancy existed on the three-man board until fall, when he threatened Jermyn Council with a mandamus action, forcing them to fill the post. Robert J. Jones, a school teacher, was contacted that same night, and agreed to serve on the board.

During the Oct. 21 hearing, Attorney O'Brien, of the firm of Oliver, Price and Rhodes, told the board that it upheld the Nicholls' appeal, Allied Services would have no recourse but to sue the Borough of Jermyn for \$55,000 — purchase price of the

structure, plus \$15,000 Allied Services had put into the building in renovations.

Not Allied's duty

"It was not Allied's duty to look behind the face of the permit," O'Brien told the board.

Meanwhile, on Thursday, Nov. 5, Allied Services held an open house at the Jermyn "transitional living" facility to acquaint townspeople and neighbors with the program. That same evening an "informal" meeting was held between members of the Zoning Board, members of Council, and the Jermyn Planning Commission.

According to a borough spokesman, the unadvertised meeting produced no decisions. The following Monday evening the Nicholls' appeal, Allied Services would have no recourse but to sue the Borough of Jermyn for \$55,000 — purchase price of the

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involved are notified."

Brief mention of the board's decision was made by Council President Edwards during last Thursday night's regular November council session.

Conjecture as to what happens next in this legal battle is running rampant in Jermyn. Mentioned have been council's re-zoning the R2 neighborhood where the Allied building is located; Allied's re-applying for another permit, a public hearing being held with both Zoning Board and Planning Commission taking part.

Attorney Rhodes on Monday had no further comments on which direction Allied's appeal would take, only that it would be appealed through the courts.

Informed sources told the MIRROR it was expected that Allied would probably be allowed to continue occupying the building at 438 Washington Ave. pending the appeal.



Keeping a close eye on their Lakeland Chiefs, these fans were not disappointed as the home team won its second straight Big Eleven title. See story on page 6. (MIRROR photo by Ros-Al)

Jermyn solons okay three-mill tax increase

By NAN WATERS

Property owners in Jermyn will be paying an additional three mills in real estate taxes in 1982, bringing the tax millage to 28...the first increase in the borough in many years.

The borough council voted unanimously to approve a tentative balanced budget for the community of \$270,970 for 1982 at a 90-minute regular meeting Thursday evening in the Jermyn Community Center.

Budget is lower

The projected budget is some \$14,000 lower than that for 1981. Total assessed valuation in the borough is \$2,524,568.

Council President Idria D. (Donald) Edwards explained that several debt work sessions have been held and that at one point the projected millage was up to 30.

"However, we were able to shave it to 28 mills," he added.

Another budget session for the solons will be held Dec. 3, and final approval is expected at the next regular meeting Dec. 10. Final approval must be made before Dec. 31.

However, increased costs for the coming year, particularly in utilities, forced the tax increase.

Borough Secretary John R. Hogarth read a letter from Pennsylvania Power and Light Co. advising the borough that effective May 27, 1982, there will be a 16.2 percent increase in lighting mercury vapor street lights in the community. This came on the heels of a 1981 increase.

The cost of street lighting will be approximately \$21,000 for next year, Hogarth pointed out, and this accounts for the mill (or \$2.340) tax increase.

The borough also pays \$284 monthly to Pennsylvania Gas and Water Company for rental of its fire hydrants.

Jermyn residents may inspect the proposed budget in the office of the borough secretary in the Community Center between the hours of 2 and 5 p.m. Monday through Friday.

Attendance sparse

Ironically, attendance at Thursday evening's session, probably the most important of the entire year, was sparse. Except for the press, and a full complement of councilmembers, except for Stanley Holloway Jr., who was reported to be out of town, the only resident in attendance was William Langman, Jr. Mayor Edward M. Callahan was also absent from the meeting, for the first time in several years.

In other action, the council, over the objections of John Cominski, voted to cancel two life insurance policies owned by the borough and written by Metropolitan Life Insurance Company on Police Chief Alfred J. Zaborski and Patrolman James M. Reilly, and to transfer them to North American Life through the State Association of Boroughs. Councilman Theodore Chrusch Jr. abstained from voting on the basis that "they...the Metropolitan police...were written by a member of my family."

Council voted, again with Cominski dissenting, to transfer \$90,000 in the public retirement fund from First National Bank of Jermyn to the Pennsylvania State Association of Boroughs Municipal Retirement Plan. It will be administered by Kew-Avon-Clayton of Philadelphia.

Cominski, who told the MIRROR after the meeting he "prefers keeping things in your own backyard," urged the councilmen to have the Jermyn bank administer the fund.

"It would create good will with the bank," he emphasized. Eleven thousand dollars will

remain in the local bank at 5 1/2 percent interest.

In other action council approved appointment of Dennis Kitch, 408 Gibson St., and Allen Menck, Old Mill Road, to the Aylesworth Park Creek Authority, on the recommendation of Michael Rinaldi, authority chairman.

Edwards stated he had received a communication from the Jermyn Zoning Board of Appeals (or Adjustment), revoking the permit of Allied Services for the Handicapped issued for special use of a property at 438 Washington Ave. An appeal had been brought by Attorney and Mrs. Albert E. Nicholls, Jr. (See additional MIRROR story).

Library will open

Hogarth read a letter from Library Chairman Monika Drury stating the library is scheduled to open in December. Ms. Drury requested window shades, a wicker chair and desk, shelving and magazine rack, and junior-sized chairs and tables.

She also mentioned the appointment of Attorney Nicholls to the library board, following the resignation of Mrs. Helen M. Scarpetta. Councilman Chrusch asked if Nicholls' appointment were legal without the permission of council and the board secretary was directed to look into the matter.

Bills totaling \$6,697.40 were paid from the general fund, and \$2,973.71 from federal revenue sharing funds.

Edwards stated that warning tickets have been issued by police to those motorists violating the alternate side of the street parking ordinance. In answer to a question, he replied that the ordinance would be enforced "within the next few weeks."

City solons vote to take administration to court

Carbondale city council Monday night voted to hire an attorney to take the city administration to task for transferring monies from the sinking fund and for city charter violations.

"It isn't legal to use the sinking fund for anything but bonded indebtedness," Councilman Michael Tolercio stated at the Monday night session.

The solons, who had given the administration until Monday night to make amends for the alleged violations, also said council should take the administration to court for violations of the city's home rule charter.

"It's being violated every day," he added.

Council then unanimously approved the hiring of Atty. James McDonough at a reasonable fee.

In discussing the situation, Tolercio said that council had been told that the city was solvent; that it was paying its bills on time.

Fallen behind

However, he said Monday night that the city had fallen behind on its Blue Cross payments to the result that employees received letters notifying them of that fact.

Tolercio also stated that the city is not making payments into pension funds.

He also took exception to a cover letter on the 1982 budget which the solons received Monday.

The letter stated that the city needs an eight-mill increase because of "several liabilities carried over from 1981."

Council President James McMyne added, "I can't understand where he (Masco) gets these figures (on the budget). It's just not in the ballpark."

Just glancing at the budget, he said, he noted there were \$73,000 in unpaid bills.

Absent when the vote on hiring a lawyer was taken was Councilman Don McDonough.

Canaan Street

Councilman Albert "Abe" Calzola reported Monday night that he and Councilman Andy Leo had inspected Canaan Street and Route 6 to the top of Farview Mountain in the wake of a truck accident several weeks ago.

At that time a tractor-trailer had lost its brakes coming down Route 6 (Canaan Street) and turned over at the Church Street-Main Street intersection.

Three people were slightly injured, but the accident could have been much worse had the intersection been busier.

Calzola sought approval to check the possibility of creating a pull-over near the old city dump near the top of Canaan Street.

Trucks could use the pull-over to check their brakes and then proceed with a 20 mile per hour limit.

He added that the low gear signs are placed too late on the hill and should be located further up the federal highway.

Council agreed to pursue the matter.

city laid off those nine people in September and one more in October.

Income down, too

On the income side of the ledger, there is bad news in store for the city.

The city will no longer be collecting monies for its tax-collecting services.

The county just instituted a unified tax office, under the administration of David Weir of Scranton's tax office.

This move means the City of Carbondale will lose \$10,700 in yearly income used to pay for the county's share of collecting taxes from city residents.

The city also will lose about \$1,500 for their share of making the tax bills and for their share of data processing equipment time.

"I received a letter that the school board will collect its own taxes next year," Masco told the MIRROR.

That means, he said, another loss of about \$10,000.

Or in the long run, he said, his budget will probably mean a tax increase of some sort for city residents next year.

Asked what the chances are of city residents not being hit with a tax increase next year, Masco replied, "Very slim."

Yet, he is continuing to look at the budget with an eye toward no tax increase.

City's home rule charter, of either accepting the administration's (or mayor's) budget or putting together one of its own.

For the fiscal year 1981, the city is using one of council's making. Masco told the Carbondale Mirror last week during a visit to the MIRROR's Fairbrook Street office.

Council has option to draw up its own

With all his work on the 1982 budget, city finance director Joseph Masco is not even sure of his budget being adopted by city council.

A draft of his 1982 budget was to have been presented to city council Monday night.

Council then has the option, under the